

COLORADO STATE BOARD OF PHARMACY

March 19, 2009

Minutes

The Colorado State Board of Pharmacy meeting was convened by President Paul Limberis, R.Ph., at approximately 8:36 a.m. on Thursday, March 19, 2009 at 1560 Broadway, Conference Room 1380, Denver, CO 80202. Notice of this meeting was given in accordance with Division of Registrations Policy Number 80-17.

Board members attending were: Mary K. Arceneaux, R.Ph., Jeannine G. Dickerhofe, R.Ph., Rich Doyle, R.Ph., Katherine Edelblut, R.Ph., Leonard Hierath, P.E., Paul Limberis, R.Ph., and Averil Strand, R.N.

Staff members attending were Wendy Anderson, R.Ph., Program Director; Chris Gassen, R.Ph., Chief Inspector; Billie Marseilles, R.Ph., Inspector, Susan Martin, R.Ph., Inspector; and Mark O'Neill, R.Ph., Inspector. Also present was Jo Kaye, Assistant Attorney General, and Jack Wesoky, First Assistant Attorney General, to advise the Board.

APPROVAL OF MINUTES

The Board approved the minutes from the January 15, 2009 meeting, as amended, and approved the minutes from the January 30, 2009 meeting, as submitted.

ADDITIONS TO THE AGENDA

REC Report

Case 2009-2356

Request from Allergan

Request from Interchem

APPEARANCES

Cathy Jarvis, Assistant Dean for Student/Professional Affairs, University of Colorado, School of Pharmacy, & Donna Lindsey, Colorado Pharmacist Recovery Network, Peer Assistance Services, provided information to the Board concerning consideration taken by the School of Pharmacy on the admission of applicants with criminal history and/or substance abuse issues.

HEARINGS

The Board conducted a public hearing concerning additions to or amendments to regulation 9.00.00 (3 CCR, 719-1). The hearing began at 9:30 a.m. and was held in Conference room 1380 at 1560 Broadway, Denver, Colorado. The Board discussed the proposed changes to the rules then adopted the rule as proposed.

REPORTS

President's Remarks

President Paul Limberis thanked the Board's staff for the excellent job it does. He detailed positive comments he received from an individual who had attended the Board's Pharmacy Manager Seminar in March 2009. The attendee found the content and presentation to be very helpful and was able to disseminate the information to his colleagues. In addition, Mr. Limberis reported that practitioners at Denver Health Medical Center utilize the Electronic Prescription Drug Monitoring Program ("PDMP") extensively on a daily basis.

Program Director's Report

Ms. Anderson advised the Board that Inspector Billie Marseilles had submitted her resignation. The Division will not seek to replace her position until the hiring freeze is lifted. She advised the Board the final Pharmacy Technician Taskforce report would be on the next agenda.

Ms. Anderson told the Board that Jeannine Dickerhofe had agreed to be the Colorado delegate at the National Association of Boards of Pharmacy conference in May 2009. She then told the Board that its staff had issued 63 Cease and Desist Orders pursuant to policy for the unlicensed distribution of prescription drugs since the January meeting. In addition, pursuant to policy, staff had issued 19 stipulated licenses. She detailed the Board's case closure statistics for two consecutive years. In addition, she told the Board the Alliance of States with Prescription Monitoring Programs would be holding a meeting for the Western United States in Denver on May 5 and May 6, 2009.

Leonard Hierath then detailed his attendance at the Division of Registration's Public Board Member Meeting.

Colorado Pharmacists Society (CPS) – Rich Doyle, RPh

The Advances in Pharmacy Practice Continuing Education ("CE") program offering six hours of continuing education, was offered by CPS and the School of Pharmacy on February 21, 2009. Over 140 pharmacists attended.

The next CE program is the Annual Summer Meeting, June 26-28, 2009 in Copper Mountain, Colorado. Ten hours of CE will be offered.

Pharmacist Line 9 has been incorporated into the 9 News schedule as an every other month event. This event is promoted during the news and the public is encouraged to call a number shown on the screen to speak to a pharmacist. The Pharmacist Line 9 was held on Tuesday, February 24, 2009 from 4:00-6:00 PM. Over 200 calls were received by CPS volunteer pharmacists.

The Colorado Pharmacists Society is once again a partner for the 9 Health Fair from April 18-26, 2009. CPS is helping the fair organizers get pharmacist volunteers for designated sites throughout Colorado. Interested individuals may volunteer through the 9healthfair.org website. Click on "Find a Fair", enter the desired city and under screenings, scroll down to "Ask a pharmacist." A listing of every site requesting pharmacists in that city will appear. Individuals can then complete the "volunteer" page and will be contacted by the site coordinator for confirmation and to answer any questions.

The CPS Board of Directors is planning to conduct a survey of the pharmacists of Colorado on the issue of pharmacy technicians and would be glad to provide the results of this survey to the Colorado Pharmacy Board's Pharmacy Technician Task Force.

Governor's Expert Emergency Epidemic Response Committee (GEEERC) – Paul Limberis, RPh

None.

Intern & School Relations – Jeannine Dickerhofe, RPh

Regis School of Pharmacy has postponed their application review with the Accreditation Council for Pharmacy Education ("ACPE"). This had originally been scheduled for January 2009. The postponement will give Regis more time to prepare. The application review has now been rescheduled for June 2009 to obtain pre-candidate status. Regis, however, does have a focused site visit by ACPE scheduled on April 23 and 24, 2009.

Legislation - Jeannine Dickerhofe, RPh.

Five bills have thus far been introduced in the 2009 Legislative Session that would affect pharmacy.

House Bill 09-1032, Photo ID for Controlled Prescriptions, was postponed indefinitely. House Bill 09-1073, Electronic Prescriptions in Medicaid, is in Appropriations. Senate Bill 09-1332, which would provide prescription drug discount information, is in Appropriations. House Bill 09-1061, titled Health Care Transparency, would require health care disclosures involving insurance carrier business relationships and intermediary entities has passed out of the Health and Human Services Committee. Senate Bill 09-106 titled, the Prescription Drug Ethics Act, was postponed indefinitely.

A Syringe Exchange Program bill authorizing each county in the state to accept and review an application from a health organization seeking to create a clean syringe exchange program was scheduled to be introduced later in February but was pulled by the sponsor.

Rules – Rich Doyle

None.

Inspectors

Research Report on Drug Recalls

The Board reviewed an Agenda Memorandum from Inspector Mark O'Neil which detailed an analysis on other states' rules on drug recalls. The Board noted this information, deciding that no action was required.

OLD BUSINESS

Stipulations

Hughes, Dennis, RPH 18213

The Board reviewed correspondence from Mr. Hughes concerning issues Mr. Hughes has with his Rehabilitation Evaluation Committee ("REC") contract. After due consideration of

the available information, the Board noted that Mr. Hughes' evaluation by Peer Assistance Services ("PAS") indicated the need for a contract and that the Rehabilitation Evaluation Committee ("REC") agreed with that assessment. In addition, the Board noted that Mr. Hughes' license is suspended, and will remain suspended until he comes into full compliance with the September 2008 Final Agency Order, which includes signing the REC Contract and fully complying with its terms.

Petnet Solutions, Inc., PDO 568

The Board reviewed an Agenda Memorandum from Tia Johnson, Complaint/Licensing Analyst, concerning a request from Petnet Solutions, Inc. for discharge from the terms of its Stipulation and Final Agency Order. After due consideration of the available information, the Board released Petnet Solutions, Inc. from its stipulation.

NMHCRX Mail Order, Inc., OSP 5494

The Board reviewed a plan of action for Prescription Drug Monitoring Program ("PDMP") compliance, submitted by NMHCRX Mail Order, Inc., per its Stipulation and Final Agency Order, effective February 2009. The Board reviewed an Agenda Memorandum from Ms. Johnson, concerning a request from NMHCRX Mail Order, Inc., for discharge from the terms of its Stipulation and Final Agency Order. After due consideration of the available information, the Board approved the plan of action, and released NMHCRX Mail Order, Inc., from its stipulation.

Wanek, Philip M., RPH 17296

The Board reviewed an Agenda Memorandum from Tia Johnson, Complaint/Licensing Analyst, concerning Mr. Wanek's request for discharge from the terms of his Stipulation and Final Agency Order. After due consideration of the available information, the Board released Mr. Wanek from his stipulation.

MISCELLANEOUS

Peak Vista Family Health Center at Myron Stratton & Petition to Reduce Visitation Schedule Pursuant to Rule 14.06.00(a).

The Board reviewed an Agenda Memorandum from Inspector Susan S. Martin. After due consideration of the available information, the Board denied the request to reduce visitation.

Case #2009-1345 & Follow-up Response to Computer Patient Profile Merging

The Board noted the information.

McKesson Corporation, Appeal of Application Denial & Request to Appear Before the Board.

The Board reviewed an Agenda Memorandum from Ms. Johnson, concerning McKesson Corporation's request to appear before the Board, and concerning McKesson Corporation's request for reconsideration of the Board's decision to deny its non-resident wholesaler application. After due consideration of the available information, the Board denied the request to appear before the Board, and denied the request for reconsideration of its previous decision to deny the application.

Complaints

Avista Family Pharmacy, PDO 651 **2009-1782**

A motion was made, seconded, and carried to dismiss the case.

Avista Family Pharmacy, PDO 651 **2009-1783**

A motion was made, seconded, and carried to dismiss the case.

Avista Family Pharmacy, PDO 651 **2009-1784**

A motion was made, seconded, and carried to dismiss the case.

Yim, Hyesung, RPH 16353 **2009-1785**

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Yim, Hyesung, RPH 16353 **2009-1811**

A motion was made, seconded, and carried to dismiss the case as being without merit.

Tyree, Calvin T., Jr., RPH 16164 **2009-1786**

After due consideration of the available information, the Board voted to refer the case for discipline.

Tyree, Calvin T., Jr., RPH 16164 **2009-1787**

After due consideration of the available information, the Board voted to refer the case for discipline.

Tyree, Calvin T., Jr., RPH 16164 **2009-1788**

After due consideration of the available information, the Board voted to refer the case for discipline.

Brierton, Scott E., RPH 13440 **2009-1928**

After due consideration of the available information, the Board voted to refer the case for discipline.

College Pharmacy, PDO 24-38 **2009-1779**

After due consideration of the available information, the Board voted to refer the case for discipline.

Freund, Joseph E., RPH 16977 **2009-1781**

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Budman, Lynda J., RPH 15314 **2009-1780**

A motion was made, seconded, and carried to dismiss the case as being without merit.

Exel, Inc., WHO 7405 **2009-1994**

A motion was made, seconded, and carried to dismiss the case as being without merit. However, the Board did direct a letter of guidance be sent to Exel, Inc.

Hastings, Mary L., RPH 10475 **2009-1090**

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Meeker Drug, PDO 86-2

2009-1673

After due consideration of the available information, the Board voted to refer the case for discipline.

Meeker Drug, PDO 86-2

2009-1852

After due consideration of the available information, the Board voted to refer the case for discipline.

Sullivan, Melvin, RPH 8747

2009-1672

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Monument Pharmacy Inc., PDO 136-1

2009-1926

After due consideration of the available information, the Board voted to refer the case for discipline.

Phan, Nghia C., RPH 17066

2009-1900

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Upon review of the information contained in this case, the Board directed a complaint be initiated against Walgreen Pharmacy #4307, PDO 7-23.

Walgreen Pharmacy #07581, PDO 558

2009-1854

A motion was made, seconded, and carried to table this case.

Walgreen Pharmacy #6513, PDO 7-29

2009-1853

A motion was made, seconded, and carried to table this case.

Woldu, Eden B., RPH 14787

2009-1751

A motion was made, seconded, and carried to dismiss the case as being without merit.

LICENSING

Other Outlets, New

The Board approved the registration of 2 new other outlets.

Prescription Drug Outlets, New (In-State)

The Board approved the registrations of 6 new in-state prescription drug outlets.

Prescription Drug Outlets, New (Out-of-State)

The Board approved the registrations of 12 new nonresident prescription drug outlets.

Manufacturers, New

The Board approved the registrations of 0 new manufacturers.

Limited Licenses, New

The Board approved the registrations of 0 new limited licenses.

Wholesalers, New (In-State)

The Board approved the registrations of 2 new in-state Wholesalers.

Wholesalers, New (Out-of-State)

The Board approved the registrations of 35 new out-of-state Wholesalers.

Licensure by Examination

The Board ratified the licensure of 7 applicants for licensure by examination.

Licensure by Score Transfer

The Board ratified the licensure of 0 applicants for licensure by score transfer.

Licensure by License Transfer

The Board ratified the licensure of 14 applicants seeking licensure through license transfer. It was noted that these licensees met all of the requirements for licensing under the provisions of section 12-22-116, C.R.S.

LICENSURE ISSUES

Allscripts, LLC & Out of State Prescription Drug Wholesaler Application for Reinstatement

The Board noted this information and determined no further action was required.

Grifols Biologics, Out of State Wholesaler Applicant

Jeannine G. Dickerhofe, RPh, recused.

After review of the available information, the Board voted to deny the application, referring the matter for discipline.

Hachem, Aliaa, Pharmacist Applicant

After review of the available information, the Board voted to issue the license, once the application is complete.

The Board directed staff to draft a policy concerning ACPE accreditation of pharmacy schools for the Board's review and approval at an upcoming meeting.

Seaman, Rebecca A, Pharmacist Applicant

After review of the available information, the Board tabled further action, pending review of additional documentation.

MISCELLANEOUS

Correspondence, etc.

Board Rule 19.00.00 & The Collaborative Education Institute

After due consideration, the Board tabled further action, pending review of additional documentation.

Endo Pharmaceuticals Inc.

After due consideration, the Board directed correspondence be sent stating that since Endo Pharmaceuticals Inc. is not engaged in the wholesale distribution of prescription drugs, registration as a wholesaler is not needed.

Potts, Kevin J., RPH 16983

After due consideration, the Board tabled action, pending the receipt of additional information.

Referral from the Colorado State Board of Medical Examiners

After due consideration, the Board directed correspondence be sent to the Colorado State Board of Medical Examiners.

Referral from the Colorado State Board of Medical Examiners

After due consideration, the Board tabled further action, pending additional information.

West Slope Mental Health Stabilization Center & Board Rule 14.00.10(f)

After due consideration, the Board directed correspondence be sent waiving the requirements of Rule 14.00.10(f), for this particular situation.

Information from NABP Vet-VIPPS

The Board noted this information.

Anonymous Complaint

After due consideration, the Board directed correspondence be sent to this complainant stating that the Board does not have jurisdiction to take action in this matter. However, the Board suggested that the complainant address the issue with the complainant's employer's human resources office.

BD Diabetes Care Contact, Ellen Golliher, Diabetes Sales Consultant, Diabetes Care, BD Medical

The Board noted this information.

Peer Assistance Services, 2nd Quarter Report

The Board noted this information.

Interchem

After due consideration, the Board denied the request to waive the inspection requirement for out-of-state wholesaler registration. In addition, the Board directed correspondence be sent stating that since Interchem is not engaged in wholesale distribution, the Board cannot issue a wholesaler registration to this facility.

Allergan USA Inc., WHO 7514

After due consideration, the Board denied the request to rescind the Cease and Desist Order issued to Allergan USA, Inc., effective 2/5/09. However, the Board directed correspondence be sent to Allergan USA, Inc. stating that the Stipulation and Final Agency Order effective 3/10/09, released them from the Cease and Desist Order.

EXECUTIVE SESSION

Board President Paul Limberis moved that the Board enter into executive session as authorized by CRS 24-6-402 subsection (3)(a) roman (III) to discuss matters which are required by law to be kept confidential. Specifically, the provisions of law requiring these matters to be kept confidential are:

CRS 24-6-402 subsection (3)(a) romans (II) and (III), and section 13-90-107(b), which protect as confidential communications with counsel that are matters of pending or imminent litigation, or are otherwise subject to the attorney-client privilege, and CRS 25-1-1201 et sequitor, which protects the confidentiality of information pertaining to individual medical records.

The motion was unanimous.

The Board discussed the case status report from the Office of Expedited Settlement.

The Board discussed the report from the Rehabilitation Evaluation Committee ("REC").

The Board discussed all items referred to it earlier in the meeting as well as matters confidential by law.

Open Session

The Board voted to accept PR09-158, PR09-160, PR09-159, and PR09-161 into the REC.

The Board reviewed information demonstrating REC contract non-compliance by Cameron Stryker, RPH #14159. Rich Doyle, RPh, recused.

The Board found that the public health, safety, or welfare imperatively required emergency action, and voted to send a letter to Mr. Stryker, directing him to come into compliance with his REC contract within 14 days of the letter. If Mr. Stryker fails to come into compliance with his REC contract within the prescribed time frame, the Board directed that Mr. Stryker's pharmacist license be summarily suspended.

The Board reviewed information demonstrating REC contract non-compliance by Ami Hackman, RPH #14747, and voted to refer for discipline.

2009-1389

Jeannine G. Dickerhofe, RPh, recused.

A motion was made, seconded, and carried to refer this case for discipline.

2009-2356

Mary K. Arceneaux, RPh, recused.

A motion was made, seconded, and carried to dismiss the case.

2009-1348

A motion was made, seconded, and carried to dismiss the case as being without merit.

2009-1871

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

2009-2060

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

2009-2077

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

ADJOURNMENT

The Board adjourned at approximately 5:00 p.m.

Approved by Paul Limberis, R.Ph., President Date: April 23, 2009